

EXHIBIT 1:

Breach Declaration

1 Scott S. Thomas
Nevada Bar No. 7937
2 sst@paynefears.com
Sarah J. Odia
3 Nevada Bar No. 11053
sjo@paynefears.com
4 PAYNE & FEARS LLP
6385 S. Rainbow Blvd., Suite 220
5 Las Vegas, Nevada 89118
Telephone: (702) 851-0300
6 Facsimile: (702) 851-0315

7 *Attorneys for Plaintiff*
8 *Capitol Specialty Insurance Corporation*

9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA
11

12 CAPITOL SPECIALTY INSURANCE
CORPORATION, a Wisconsin corporation, as
13 assignee of UNITED CONSTRUCTION
COMPANY,
14

15 Plaintiff,

16 v.

17 STEADFAST INSURANCE COMPANY, a
Delaware corporation; RHP MECHANICAL
18 SYSTEMS, a Nevada corporation; and AXIS
SURPLUS INSURANCE COMPANY, an
19 Illinois corporation,

20 Defendants.

21 AND RELATED CROSSCLAIM

22 STEADFAST INSURANCE COMPANY,
23

24 Plaintiff,

25 v.

26 RAY HEATING PRODUCTS, INC., et al.
27

28 Defendants.

Case No.: 2:20-cv-1382-JCM-VCF

DECLARATION OF BRANDON BREACH

1 I, BRANDON BREACH, under penalty of perjury, declare as follows:

2 1. I am the Chief Financial Officer Emeritus for United Construction Company
3 (“United”). I have held this role for thirty-five years, and at all times material to the matters set
4 forth in this Declaration. In my role as CFO for United, it is my responsibility to file insurance
5 claims and provide initial information about the claim either directly to the insurer or through LP
6 Insurance Services. I have personal knowledge of the matters set forth herein, except as to those
7 stated on information and belief and, as to those, I am informed and believe them to be true. If
8 called as a witness, I could and would competently testify to the matters stated herein.

9 2. United is a commercial construction company headquartered in Reno, Nevada that
10 provides construction design and building services to clients in Nevada and California.

11 3. On November 26, 2014, United entered into two design-build contracts for the
12 design and construction of LogistiCenter 395 Buildings A and C, two commercial warehouse
13 buildings located at 8020 and 8040 N. Virginia Street, Reno, Nevada (the “Virginia Street
14 Properties”). True and correct copies these contracts are attached as **Exhibit A**.

15 4. On September 25, 2015, United entered into a design-build contract for the design
16 and construction of Logisticenter 395, Phase II, Building 1, a commercial warehouse building
17 located at 8730 Military Road, Reno, Nevada (the “Military Road Property”). A true and correct
18 copy of this contract is attached as **Exhibit B**.

19 5. In or around June or July 2016, the owner of the Virginia Street Properties advised
20 United that it had discovered mold within the roof substrates of the Virginia Street Properties.

21 6. LP Insurance Services, on United’s behalf, tendered the Virginia Street Claims to
22 Steadfast under the Steadfast Policy on August 5, 2016. A true and correct copy of an email I
23 received from Steadfast adjuster Chris Ford on August 12, 2016 acknowledging receipt of the
24 August 5, 2016 tender is attached as **Exhibit C**.

25 7. The owner of the Virginia Street Properties made a claim against United relating to
26 the mold in the roof substrates of the Virginia Street Properties. (“Virginia Street Claims”).

27 8. I received a letter from Steadfast dated October 20, 2016, indicating that Steadfast
28 agreed to participate in United’s defense of the Virginia Street Claims subject to a reservation of

1 rights. A true and correct copy of the October 20, 2016 letter is attached as **Exhibit D**.

2 9. I am informed and believe that United asked J. Tom Wise (“Wise”) to inspect the
3 Military Road Property for microbial growth. Wise issued a report to United dated November 2,
4 2016. A true and correct copy of Wise’s November 2, 2016 report is attached as **Exhibit E**.

5 10. On or around April 14, 2017, United discovered mold in the roof substrates of the
6 Military Road Property.

7 11. On April 17, 2017, I forwarded an email to Danielle Hill from LP stating, “please
8 advise the appropriate carriers that we have now found microbial growth on the building located at
9 8730 Military Road” A true and correct copy of my April 17, 2017 email as attached as
10 **Exhibit F**.

11 12. As I indicated to Sherri McMahon, an insurance adjuster for Arch Specialty
12 Insurance Company (“Arch”) on October 19, 2017, the owner of the Military Road Property
13 “recently made a verbal demand for UCC to remediate the [Military Road] property” shortly prior
14 to October 19, 2017. A true and correct copy of Ms. Mahon’s email to me on October 20, 2017
15 summarizing our conversation, and my October 26, 2017 response, are attached as **Exhibit G**.

16 13. On July 11, 2017, I emailed Steadfast adjuster Chris Ford to ask about the status of
17 the Military Road matter. True and correct copies of my July 11, 2017 email to Mr. Ford and the
18 responses to my email from Mr. Ford and Mr. Batjer are attached as **Exhibit H**.

19 14. Arch issued a Contractors Professional Liability Policy to United that was in effect
20 from April 20, 2017 through April 20, 2018.

21 15. On October 19, 2017, I spoke with Arch adjuster Sherri McMahon. Our
22 conversation is summarized in the emails between us dated October 20, 2017 and October 26,
23 2017. A true and correct copy of these emails is attached as **Exhibit G**.

24 16. I received a letter from Arch dated November 10, 2017 denying United’s tender of
25 the Military Road Claim. A true and correct copy of that letter is attached as **Exhibit I**.

26 17. United resolved the Military Road Claim with the owner of the Military Road
27 Property by making remediations to the Military Road Property that cost a total of \$4,097,000.00.

28 18. United made a claim against its insurance broker, LP, alleging that LP failed to

PAYNE & FEARS LLP

ATTORNEYS AT LAW
6385 S. RAINBOW BLVD., SUITE 220
LAS VEGAS, NEVADA 89118
(702) 851-0300

1 timely report the Military Road Claim to Steadfast.

2 19. United incurred costs totaling \$1,273,908.44 to repair mold and moisture damage
3 to the roof substrates at the property located at 385 Milan Ave., Reno ("Milan Property") Nevada
4 at a cost of \$1,273,908.44.

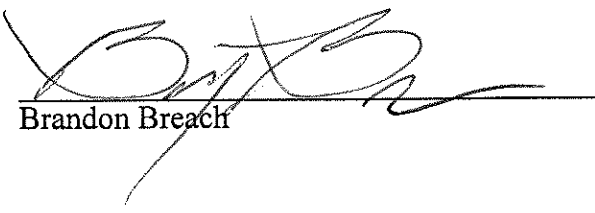
5 20. The owner of the Milan Property asserted a claim against United asserting that
6 United was responsible for the damage to the Milan Property (the "Milan Claim").

7 21. On or around July 5, 2017, United settled the Milan Claim with the owner of the
8 Milan Property for \$650,000. This amount was paid by the owner of the Milan Property to United.

9 22. United also asserted a claim against RHP Mechanical Systems ("RHP") related to
10 the Milan Claim and settled with RHP for \$100,000.

11 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
12 is true and correct.

13 Executed March 30, 2023.

14
15 
16 Brandon Breach

17 4869-4580-6682.1
18
19
20
21
22
23
24
25
26
27
28